IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 3304 of 2005

DATED: 19.11.2007

Between:
Y Charles petitioner

And

The Chief General Manager,
Telecommunications
AP circle, Hyderabad and ors Respondents

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THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 3304 of 2005

Oral order:

This writ petition is filed questioning the action of the respondents in not regularizing the services of the petitioner in spite of fulfilling the requisite conditions stipulated and submission of documents, as illegal and contrary to provisions of Industrial Disputes Act, 1947.

The petitioner claims that he is working as casual labour from 1.3.1983 onwards subject to intermittent and artificial breaks. He submitted representations for regularization of his services and since no action was taken thereon, he filed O.A No. 1435 of 2003 on the file of the Central Administrative Tribunal and the said O.A was disposed of by order dated 21.11.2003 directing the respondents to dispose of the representation of the petitioner within a period of three months from the date of receipt of the copy of the said order. Thereafter, the first respondent issued letter dated 17.3.2004 rejecting the claim of the petitioner for regularization on the ground that prior to 1.8.1998, he has not worked for 240 days. The petitioner claims that he has completed 240 days much prior to 1998 and was sent on foreign services to Telecommunications Consulting India Limited, a sister organization of the respondents from 25.1.1995 to 1.2.2000 and without considering the said service, his claim was not considered and his juniors were regularized. The petitioner further alleges that from 24.2.2005 he is not

being permitted to attend the duties and the said action of the respondents is in violation of provisions of Industrial Disputes Act, 1947. Hence, the present writ petition.

Respondents filed a counter affidavit denying the writ averments and stating that a policy decision was taken to convert all part time casual labour with long years of engagement into full time casual labour for conferment of temporary status vide letter dated 16.9.1999 and letter dated 29.9.2000 and since the petitioner is not covered by said instructions, he was issued with letter dated 17.3.2004 rejecting his case. Thereafter, his case was considered in terms of the orders passed in O.A. No. 1435 of 2003 and letter dated 20.8.2004 was issued to the petitioner, rejecting his case. It is further stated that the certificate of engagement for the period from 1.3.1984 to 30.6.1990 is not authentic and deputation of his services from 25.1.1995 to 1.2.2000 is baseless, since the casual labour could not be sent on deputation to foreign services.

Thereafter, an additional counter affidavit was filed stating that the records were verified and it is found that no records relating to the case of the petitioner are available. It is further stated that in terms of the decision of the Apex court, a scheme was formulated for regularization of the casual labour who have rendered one year service and proceedings
dt 15.11.1988 were issued to regularize the services of 14,117 casual labourers with seven years of service as on 31.3.1987. That ban was imposed for engagement of casual labourers vide letter dated 30.3.1985 and the same was extended from time to time. It is also stated that information was called for from circles with regard to the casual labour who were engaged continuously and worked for a period of 240 days prior to 1.8.1998 and on receipt of the information,

as a one time measure, 863 casual labourers were considered for grant of temporary status. Later on, on the representations made by the unions, vide proceedings dated 13.11.2003 a list of casual labourers was forwarded for consideration to the Assistant General Manager (Admn), wherein the name of the petitioner was not included. It is specifically stated that the petitioner is not engaged at present in any of the unit or offices of Tirupathi SSA and there is no employer and employee relationship. It is thus contended that in view of the letters dated 12.2.1999 and 15.6.1999 imposing ban on engagement of casual labour, there is no scope for engagement of the petitioner as casual labour.

The petitioner filed a reply affidavit stating that he was engaged w.e.f. 1.4.1993 and he is not aware of ban orders issued by the authorities for engagement of casual labour. It is alleged that the respondents are taking lame excuses as to the non-availability of records to deprive him the benefit of regularization. It is specifically contended that the petitioner is discharging his duties as casual labour for the past 21 years i.e., w.e.f. 1.3.1983 and his name was shown at serial No.11 in the list submitted by the third respondent for regularization. It is further stated that he was sent to foreign services from 25.1.1995 to 1.2.2000 to Telecommunications Consulting India Limited-a sister organization of the respondents and as such, is entitled for regularization.

Sufficient time was granted to the respondents to call for the relevant records to examine the reasons for not regularizing the services of the petitioner or for not granting the temporary status. However, it is unfortunate to note that the respondents have not chosen to produce the relevant record and adopted a non-cooperative attitude and stated that record is not available.

The learned counsel for the petitioner submitted that the petitioner is continuously working for the last about 21 years subject to intermittent and artificial breaks and is entitled for regularization and sought for a direction to the respondents 1 and 2 to reexamine the case of the petitioner and to pass appropriate orders after taking into consideration the material submitted by the petitioner in support of his claim for regularization and placed reliance on the judgments of the Supreme Court in **Secretary, State of Karnataka Vs. Umadevi (3)** [1] and **Chief Commissioner of Income Tax, Bhopal and others Vs. Leena Jain and others**[2].

Having heard the learned counsel appearing for both sides and in view of the specific contention of the petitioner that in spite of rendering service as casual labour for more than 21 years, the respondents are not considering his case for regularization or grant of temporary status,

I deem it appropriate to dispose of the writ petition with the following direction;

The 2nd respondent, namely the General Manager, Telecom District, Tirupati, shall re-examine the claim of the petitioner for grant of temporary status/regularization in the light of the materials/certificates to be filed by him, if necessary by summoning the officers concerned who issued the said certificates at the relevant point of time, without reference to the engagement of the petitioner during the existence of the ban period, and pass appropriate orders, expeditiously.

Accordingly, the writ petition is disposed of. No costs.

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N.V.RAMANA,J

DATE: 19.11.2007

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[1] SCC (2006) 4 SCC

[2] (2006) 11 SCC page 350